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*Attorneys for Irving H. Picard, Trustee
for the Substantively Consolidated SIPA Liquidation
of Bernard L. Madoff Investment Securities LLC
and the Estate of Bernard L. Madoff*

**UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF NEW YORK**

SECURITIES INVESTOR PROTECTION
CORPORATION,

Plaintiff,

v.

BERNARD L. MADOFF INVESTMENT
SECURITIES LLC,

Defendant.

In re:

BERNARD L. MADOFF,

Debtor.

SUSANNE STONE MARSHALL; ADELE FOX;
MARSHA PESHKIN; RUSSELL OASIS; A & G
GOLDMAN PARTNERSHIP; and PAMELA
GOLDMAN,

Plaintiffs,

v.

CAPITAL GROWTH COMPANY; DECISIONS,
INC.; FAVORITE FUNDS; JA PRIMARY LIMITED
PARTNERSHIP; JA SPECIAL LIMITED
PARTNERSHIP; JAB PARTNERSHIP; JEMW
PARTNERSHIP; JF PARTNERSHIP; JFM
INVESTMENT COMPANIES; JLN PARTNERSHIP;
JMP LIMITED PARTNERSHIP; JEFFRY M.

Adv. Pro. No. 08-01789 (SMB)

SIPA LIQUIDATION

(Substantively Consolidated)

Adv. Pro. No. 15-01293 (SMB)

**DECLARATION OF KEITH R.
MURPHY IN OPPOSITION TO
FOX PLAINTIFFS' MOTION FOR
DECLARATORY JUDGMENT**

PICOWER SPECIAL COMPANY; JEFFRY M. PICOWER, P.C.; THE PICOWER FOUNDATION; THE PICOWER INSTITUTE OF MEDICAL RESEARCH; THE TRUST F/B/O GABRIELLE H. PICOWER; BARBARA PICOWER, individually, and as Executor of the Estate of Jeffry M. Picower, and as Trustee for the Picower Foundation and for the Trust f/b/o Gabrielle H. Picower; and IRVING H. PICARD, Trustee for the Liquidation of Bernard L. Madoff Investment Securities LLC,

Defendants.

KEITH R. MURPHY, under penalty of perjury, declares:

1. I am a member of the Bar of this Court and a partner at the firm of Baker & Hostetler LLP, counsel for Irving H. Picard, Trustee for the substantively consolidated liquidation of Bernard L. Madoff Investment Securities LLC (“BLMIS”)¹ under the Securities Investor Protection Act, 15 U.S.C. §§ 78aaa–III (“SIPA”), and the estate of Bernard L. Madoff (“Madoff”), individually.

2. As an attorney of record in these proceedings, I am fully familiar with the facts set forth herein. I make this declaration to transmit to this Court true and correct copies of documents and to provide information in connection with the Trustee’s Opposition to the Fox Plaintiffs’ Motion for Declaratory Judgment.

3. True and correct copies of the following documents are attached:

Exhibit A: Permanent Injunction Order and Exhibit, *Picard v. Picower*, Adv. Pro. No. 09-1197 (Bankr. S.D.N.Y. Jan. 13, 2011), ECF No. 43

Exhibit B: Fox Plaintiffs’ Second Amended Complaint, *Fox v. Picower*, No. 10-80252 (S.D. Fla. Feb. 5, 2014), ECF No. 28-3

Exhibit C: Complaint, *Goldman v. Capital Growth Co.*, No. 14-80012 (S.D. Fla. filed Jan. 6, 2014), ECF No. 1-2

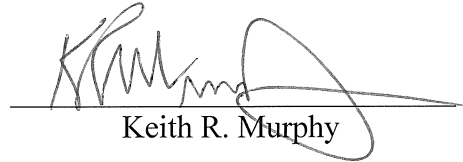
¹ Unless otherwise defined herein, defined terms will have the meaning given to them in the Trustee’s Opposition to the Fox Plaintiffs’ Motion for Declaratory Judgment.

- Exhibit D: Complaint, *Picard v. Picower*, Adv. Pro. No. 09-1197 (Bankr. S.D.N.Y. May 12, 2009), ECF No. 1, and Docket *as of* December 18, 2015
- Exhibit E: Trustee's Memorandum of Law in Opposition to Partial Motion to Dismiss, *Picard v. Picower*, Adv. Pro. No. 09-1197 (Bankr. S.D.N.Y.), ECF No. 11 (filed Sept. 30, 2009) (without exhibit)
- Exhibit F: Docket *as of* December 18, 2015, *Fox v. Picower*, Adv. Pro. No. 10-80252 (S.D. Fla.), Initial Complaint, filed Feb. 16, 2010 (ECF No. 1) (without exhibits), and Amended Complaint, filed Mar. 15, 2010 (ECF No. 5) (without exhibits)
- Exhibit G: Docket *as of* December 18, 2015, *Marshall v. Picower*, Adv. Pro. No. 10-80254 (S.D. Fla.), Initial Complaint, filed Feb. 17, 2010 (ECF No. 1) (without exhibits), and Amended Complaint, filed Mar. 15, 2010 (ECF No. 7) (without exhibits)
- Exhibit H: Motion to Approve Compromise, *Picard v. Picower*, Adv. Pro. No. 09-1197 (Bankr. S.D.N.Y. Dec. 17, 2010), ECF No. 25
- Exhibit I: Transcript of Picower Settlement Hearing, *Sec. Inv. Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC*, Adv. Pro. No. 08-1789 (Bankr. S.D.N.Y. Jan. 13, 2011), ECF No. 3815
- Exhibit J: Docket *as of* December 18, 2015, *Picard v. Fox*, Adv. Pro. No. 10-3114 (Bankr. S.D.N.Y. filed Mar. 31, 2010)
- Exhibit K: Oral Argument Transcript, *Fox v. Picard*, No. 10-4652 (S.D.N.Y. heard Dec. 19, 2011), ECF No. 37
- Exhibit L: A & G Goldman Partnership and Pamela Goldman Motions to Determine Application of Automatic Stay and Exhibit A, *Sec. Inv. Prot. Corp. v. Bernard L. Madoff Inv. Sec. LLC*, Adv. Pro. No. 08-1789 (Bankr. S.D.N.Y. Dec. 13, 2011), ECF Nos. 4580, 4581
- Exhibit M: Oral Argument Transcript, *Goldman v. Picard*, No. 12-6109 (S.D.N.Y. Sept. 24, 2013), ECF No. 34
- Exhibit N: Order Requesting Expedited Response to Motion to Stay, *Fox v. Picower*, No. 10-80252 (S.D. Fla. Feb. 24, 2014), ECF No. 37
- Exhibit O: May 7, 2014 Oral Argument Transcript, *Picard v. Marshall*, Adv. Pro. No. 14-01840 (Bankr. S.D.N.Y.), ECF No. 44
- Exhibit P: Complaint, *Goldman v. Capital Growth Co.*, No. 14-81125 (S.D. Fla. filed Aug. 28, 2014), ECF No. 1

Exhibit Q: Complaint, *Medsker v. Feingold*, No. 04-81025 (S.D. Fla. Nov. 8, 2004), ECF No. 1-1

I declare under penalty of perjury that the foregoing is true and correct.

Executed on December 18, 2015
New York, New York



Keith R. Murphy